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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/812,655	03/19/2001	Stephen C. Schulz	35013.5100	2511

7590 10/23/2002

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EXAMINER

NGUYEN, GEORGE BINH MINH

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 10/23/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

020

<b>Office Action Summary</b>	Application No. 09/812,655	Applicant(s) SCHULZ ET AL	
	Examiner George Nguyen	Art Unit 3723	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 06 August 2002.
- 2a) ☐ This action is FINAL.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-30 is/are pending in the application.
- 4a) Of the above claim(s) 6,8-14,24 and 26-28 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5,7,15-23,25,27 and 30 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 19 March 2001 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
     If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:  
         1. ☐ Certified copies of the priority documents have been received.  
         2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
         3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
     \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
     a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                  | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s). _____  |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)         | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ | 6) <input type="checkbox"/> Other: _____                                    |

Art Unit: 3723

### **DETAILED ACTION**

Receipt is acknowledged of Applicant's election of Species I, Fig. 2 and claims 1-5, 7, 15-23. Claims 6, 8-14, 24, 26, 28-29 were withdrawn from further consideration.

Claims 1-5, 7, 15-23 are presented for examination.

This application has been filed with formal drawings which has been approved by the draftsman.

### ***Election/Restrictions***

1. Applicant's election without traverse of Species I, Fig. 2, claims 1-5, 7, 15-23, 25, 27, and 30 in Paper No. 6 is acknowledged.

### ***Information Disclosure Statement***

2. The information disclosure statement filed July 30, 2001 fails to comply with the provisions of 37 CFR 1.97, 1.98 and MPEP § 609 because there was no prior art to be considered. It has been placed in the application file, but the information referred to therein has not been considered as to the merits. Applicant is advised that the date of any re-submission of any item of information contained in this information disclosure statement or the submission of any missing element(s) will be the date of submission for purposes of determining compliance with the requirements based on the time of filing the statement, including all certification requirements for statements under 37 CFR 1.97(e). See MPEP § 609 ¶ C(1).

***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-5, 7, 15-23, 25, 27, and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Breivogel et al.'064 in view of Rhoades'899.

With reference to Fig. 5, col. 4, line 13 to col. 5, line 32, Breivogel discloses the claimed invention except for the low amplitude and high frequency vibratory polishing motion set forth in the claim.

With reference to col. 1, line 55 to col. 5, line 15, Rhoades teaches that it is known to have utilized high frequency/low amplitude vibrational polishing in combination with a slurry to obtain a high surface finish polish without the loss of resolution or detail.

Thus, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized high frequency/low amplitude vibrational polishing as taught by Rhoades, since Rhoades states at col. 3, lines 55-61 that such a modification would obtain a high surface polish without the loss of resolution or detail.

Regarding to the range of amplitude and high frequency set forth in the claims, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have utilized such range, since it has been held that where the general conditions of a claim are disclosed in the prior art, discovering the optimum or workable ranges involves only routine skill in the art.

**Conclusion**

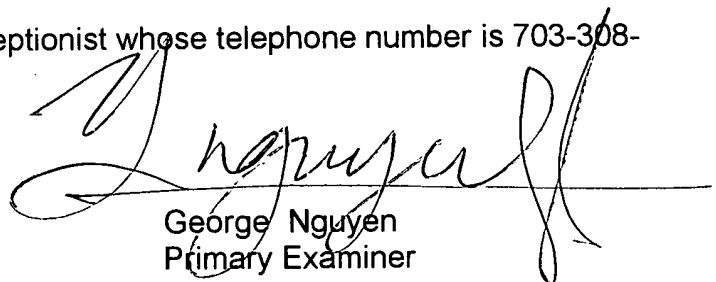
3. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Toyama'741 and Schweizer et al.'792 all disclose high vibrational polishing method. Takahashi et al.'903, Shimizu et al.'978 and '156 all disclose orbital polishing apparatus.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to George Nguyen whose telephone number is 703-308-0163. The examiner can normally be reached on Monday-Friday/630AM-300PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 703-308-2687. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-3579 for regular communications and 703-305-3579 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1078.

*George Nguyen*  
*Primary Examiner*



George Nguyen  
Primary Examiner  
Art Unit 3723

GN  
October 4, 2002